



May 9, 2000

Mr. John Steiner
Division Chief
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR2000-1808

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135056.

The City of Austin (the "city") received a request for "any written material that the [city] has received or generated in regards to the need or lack of need for competitive bidding on the CSC lease" as well as "cites to] the particular law and case law that allows the [city] to award this lease to CSC without competitive bidding." You seek to withhold the information responsive to the request under sections 552.101 and 552.107 of the Government Code.

The attorney-client privilege is incorporated into the section 552.107(1) exception to required disclosure. That provision protects information "that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct[.]" Gov't. Code § 552.107(1); *see* also Open Records Decision No. 574 (1990). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and confidential attorney-client communications. *Id.* Accordingly, these two classes of information are the only information contained in the records at issue that may be withheld pursuant to the attorney-client privilege.

We have reviewed your arguments and the information at issue and conclude that you may withhold the submitted information under section 552.107(1). Under the circumstances, we need not address in detail your arguments that section 552.101 also affords protection to the materials at issue. We note, however, that it is still the position of this office that section 552.107(1), not section 552.101, is the proper exception to raise when claiming requested materials are excepted from disclosure under the attorney-client privilege. *See* Open Records Decision No. 574.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

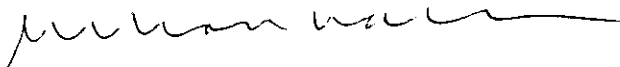
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 135056

Encl. Submitted documents

cc: Mr. Paul Robbins
2333-A Westoak
Austin, Texas 78704
(w/o enclosures)